



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/335,377 06/17/99 PLATE

J 02900.00004/

EXAMINER

PM82/0423

DONALD A GREGORY, ESQ
DICKSTEIN SHAPIRO MORIN & OSHINSKY, LLP
2101 L STREET N W 4TH FLOOR
WASHINGTON DC 20037

CULBRETH, F

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 04/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/335,377

Applicant(s)
Plate et al

Examiner
Eric Culbreth

Group Art Unit
3611



☒ Responsive to communication(s) filed on Feb 8, 2001

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-33 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-19 and 26-33 is/are allowed.

☒ Claim(s) 20-25 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3611

DETAILED ACTION

Allowable Subject Matter

1. Claims 1-19 and 26-33 are allowed.

Response to Amendment

2. The application filed 6/17/99 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: There is no support in the original disclosure for claim 25 (the sensor being an inclination switch on the frame and connected to the cylinder).

Applicant is required to cancel the new matter in the reply to this Office action.

Claim Rejections - 35 U.S.C. § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuetz (newly cited) in view of Laverda (of record).

Art Unit: 3611

Schuetz discloses a vehicle comprising a frame 10 and a support 17 for supporting a load, the support being pivoted between post 12 and member 13 by piston 14 to elevate the load relative to the frame. Laverda discloses axle 3 connected to frame 1a (i.e., the vehicle body 1 is supported on appendage or member 1a) for relative movement and a system (valves 14, 18) for locking the axle relative to the frame when the frame is tilted more than a predetermined angle (relative to the axle; see column 3, lines 41-51, where automatic leveling ceases and the hydraulic circuit becomes inoperative when the maximum angle is reached). It would have been obvious to one of ordinary skill in the art to modify Schuetz, who teaches a vehicle with a frame and boom that adjusts wheels for uneven terrain, to include a leveling and locking system such as that taught by Laverda in order to prevent the vehicle from assuming an unsafe position (claim 20).

Regarding claim 21, in the combination Laverda's limit switch 34 senses when the frame is tilted by more than a maximum or predetermined angle.

5. Claims 22-25 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Schuetz in view of Laverda and further in view of Fought (of record).

Schuetz discloses a vehicle comprising a frame 10 and a support 17 for supporting a load, the support being pivoted between post 12 and member 13 by piston 14 to elevate the load relative to the frame. Laverda discloses axle 3 connected to frame 1a (i.e., the vehicle body 1 is supported on appendage or member 1a) for relative movement and a system (valves 14, 18) for locking the axle relative to the frame when the frame is tilted more than a predetermined angle (relative to the axle;

Art Unit: 3611

see column 3, lines 41-51, where automatic leveling ceases and the hydraulic circuit becomes inoperative when the maximum angle is reached). It would have been obvious to one of ordinary skill in the art to modify Schuetz, who teaches a vehicle with a frame and boom that adjusts wheels for uneven terrain, to include a leveling and locking system such as that taught by Laverda in order to prevent the vehicle from assuming an unsafe position. Although Schuetz and Laverda do not teach a boom, Schuetz teaches at column 1, lines 50-60 that other material handling devices may be used. Fought teaches boom 34 mounted on the frame, and it would have been obvious to one of ordinary skill in the time the invention was made to modify Schuetz and Laverda to include a boom such as taught by Fought in order to handle material with a different structure as suggested by Schuetz, the primary reference.

Regarding claim 23 in the combination Fought teaches a hydraulic system 39 for elevating the boom, and regarding claim 24 in the combination the pistons of cylinders 58 and 60 in Fought are connected to frame 50 of chassis 12, and attaching a cylinder 58 or 60 to frame 50 instead of the piston is an obvious reversal of parts. At any rate, in the combination Laverda teaches cylinders 5, 5' attached to brackets 4, 4' of the vehicle frame. Regarding claim 25, as Laverda's limit switches 34 in the combination are adjacent the axle 3 in Figure 3, they would be on Fought's lower frame, measuring inclination as broadly recited and operably connected to the hydraulic cylinders.

Art Unit: 3611

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is (703) 308-0360.

ec

April 17, 2001

Eric Culbreth
ERIC CULBRETH
PRIMARY EXAMINER
4/17/01